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FRANCIS ALMON GASKILL

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(Gaskill, F.)

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FRANCIS ALMON GASKILL

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PROCEEDINGS OF THE
WORCESTER COUNTY BAR
AND SUPERIOR COURT

IN MEMORY OF

FRANCIS ALMON GASKILL

Justice of the Superior Court

AND

MEMORIAL ADDRESS

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FRANCIS ALMON GASKILL

BORN JANUARY 3, 1846

DIED JULY 16, 1909

PROCEEDINGS OF THE
WORCESTER COUNTY BAR AND SUPERIOR COURT,
FEBRUARY 19, 1910.

At a session of the Superior Court holden at Worcester on the nineteenth day of February, 1910, The Worcester County Bar Association met to present resolutions upon the death of the late Francis Almon Gaskill, a justice of the Superior Court.

John R. Thayer, President of the Association, called upon Herbert Parker to present the resolutions prepared by the committee appointed for that purpose, which he did, as follows:

The death of Francis Almon Gaskill, Associate Justice of the Superior Court, stayed and holds to-day the thought of the Bench, the Bar, and the people of our Commonwealth. His vital, alert and forceful activities, his quick, earnest, human sympathy, had become intimate part in the lives of his associates, the constant inspiration of counsel practising in his Court, and has given enlightenment and aid to those who labored with him, and under his guidance, in the wide fields of his generous and manifold interests.

In grateful recognition of eminent and faithful public service, of the kindness, courage and unselfish labor of his useful life, the Bar of the County of Worcester presents this memorial.

The son of Albert and Anna Smith Comstock Gaskill, he was born at Mendon, in our County of Worcester, on the third day of January, 1846. His father, a rigid adherent to the traditions and habits of rural New England life; his mother, a woman of gentle, serene nature, and of great charm of person and mind; he passed his early years under these influences which nourished and developed those qualities that gave both strength and tenderness to his character,—his love and memory of his mother, a present and sacred inspiration; while from

his father he reflected the steadfast, aggressive qualities that won his leadership in the affairs of men.

The public schools afforded him his early education, and there his studies might have found their end, had the wish of his father prevailed, but the son had wider and further vision. Fearless in his independence, but with the encouragement of a mother's love and confidence, he wrought his own way to matriculation at Brown University, where he was graduated at the age of twenty years.

To supplement his self-won resources, and to prosecute his studies for the Bar, he became private tutor for a year in a family at Newport, Rhode Island. Later, he entered the Harvard Law School, but without completing the course he accepted a flattering offer to continue his studies at Worcester, in the office of the Honorable George F. Verry, one of the most gifted and successful advocates and lawyers of the State, who, noting the extraordinary capacity and industry of his young associate, admitted him to partnership upon his coming to the Bar, March 3, 1869.

Thenceforward, he advanced with sure and confident step to immediate professional distinction.

His joyous nature and lighthearted manner, so characteristic through life, in his early practice, because of singular youthfulness of appearance, misled his older antagonists to their discomfiture, and occasionally excited the apprehension of a new and anxious client; but upon the lips of youth, there was the compelling speech of sound learning, the gravity of mature years, the indomitable courage of his own conviction, and no client had fear of the issue after he rose to plead his cause. Unflagging industry, fidelity, tireless energy, ceaseless inquiry, and instant resourcefulness, marked every incident of the preparation or trial of his causes. No discouragement of interlocutory decree or *nisi prius* judgment impaired the energy of his further effort.

FRANCIS ALMON GASKILL

The lawful cause of his client, once accepted, became absolutely his own, advocated and defended with *elan*, like that of the warrior in the battle charge, with vigilance like that of the sentinel on his picket.

His extraordinary sagacity and indomitable purpose to reveal the truth as he saw it, made him an advocate to be feared by every opponent, but always respected in even greater measure.

Every material success that ability and character can win in practice, came to him as of right. Brilliant victories were his. Honorable defeats after well fought conflicts he also knew, for these are the inevitable incidents in the life of every active lawyer.

But other and wider interests than those of his profession, exacting as they were, enlisted his thought and engaged his effort.

He gave efficient service in the government of his City, having been a member of the Common Council in 1875 and 1876.

In the congenial field of letters, his fine taste and his love of good and inspiring books, made him long time active upon the Board of Trustees of the Free Public Library, of which he was presiding officer.

His most intense and constant care was centered in the intellectual training, and in the upbuilding of character in school and college. His loyal attachment to Brown University illuminated his days. He taught the virtue of her genius in his own life of high endeavor. Grateful for her beneficent gifts, the glory of her name was always in his heart.

In testimony of her maternal regard, and of her recognition of his attainments, she conferred upon him the distinction of a degree of Doctor of Laws, and, calling him to her councils, he gave her conspicuous and valued service upon the Board of Fellows.

To the Worcester Academy, a school of wide constituency,

he rendered enthusiastic and most uplifting aid. The faculty and students alike felt the impulse of his mental and moral energy and sympathy, and of his abiding faith in its advancement and usefulness, now so fully realized. Many years a member of the Board of Trustees, he held the office of President at the time of his lamented death.

The Natural History Society of Worcester, teaching to young and old the marvels and inspirations of the world of nature, had also his constant sympathy and encouragement.

His public service extended to the responsible share in the management of public financial enterprises.

He was vice-president and trustee of the People's Savings Bank, not as nominal or perfunctory official, for he regularly attended its meetings, and gave actual and scrutinizing attention to its affairs, so helping to maintain public confidence and to safeguard the resources of its depositors.

Long time a director of the State Mutual Life Assurance Company, here again his experience in affairs and his just appreciation of the possibility and duties of life insurance, contributed substantive aid to the widening service and enduring security the corporation affords to its beneficiaries.

Nearly nine years he served the Commonwealth as District Attorney. Vivid memories of his administration survive, and all who knew him will recall in him the ideal prosecuting officer,—forceful, alert and inexorable in the pursuit, apprehension and punishment of the evildoer. No pretence of innocence deceived him. No falsehood escaped his inquest. No cunning perversion of the then more technical law of criminal procedure could shield the offender from the penalty he deserved.

The indictments drawn by him remain models of exact, concise pleading, discarding useless verbiage, so long encumbering the forms of allegation, and, for the most part, surviving through an almost superstitious pedantry.

The statutes, under which the present District Attorneys formulate their brief charges, follow lines which he first essayed, and which, at first, met hesitating sanction from the Courts.

His methods of trial were worthy of highest praise,—his statement of a case precise, graphic, perfectly and insistently intelligible to the Court and jury; the complex relations of facts, inference and law, so clearly displayed that the most indifferent juror could not fail to grasp the significance of evidence, when offered. His examination of witnesses was direct and exhaustive, yet a useless question never fell from his lips. He possessed a unique and compelling power to force from a mendacious witness abject and obvious confession of his falsehood. With inexorable logic, he marshalled his facts in argument, and won verdicts by demonstration rather than by the arts of persuasion, though his speech was enlivened by imagination, adorned by illustration, furnished by wide reading and retentive memory.

He was singularly free from prejudice. No sympathy or antipathy obscured the deliberate justice of his conclusions. He neither heard the applause nor criticism of his fellows, when he listened only that he might hear the truth.

In the exercise of that absolute discretion vested in his office, he forecast and adopted the wise system of probation now an essential part of our statutory criminal jurisprudence.

With a range of experience that had touched upon every phase of human conduct and motive of which the law takes cognizance, he was fully equipped for judicial service, to which he was elevated in March, 1895, and where he has left, in the annals of our trial court, a record sustaining the highest standard of the Massachusetts Judiciary, and has taught the essential, efficient justice of the law.

Here was the field of his ripened and fullest capacity and enjoyment.

The stimulus of conflict at the Bar, so long the very breath of his nostrils, gave place to an ardent search for truth and the rights of litigants as they were presented to him. Silent, intensely observant, with a concentration that overlooked no essential, he perceived the real issue of every cause. Never transcending the rightful control of counsel, scrupulously withholding his own opinion of fact, he suffered no substantive truth to remain obscured, either from inadvertence of counsel, or through evasion or want of intelligence of witness. In his presence the merits of a case were certain of full exposition. He was patient, yet intolerant of every unnecessary delay, and compelled exact compliance with the rules of procedure, and effected such dispatch of business as kept pace with his own mental energy and quickness of apprehension.

His courteous manner upon the bench reflected an instinctive kindness. A delightful humor, restrained by natural and judicial dignity, lightened the labor and mitigated the dull routine of court room procedure.

His rulings were prompt, yet never hasty, rendered with a sense of responsibility that assumed them to be final; for he sought no refuge in the thought that the ultimate decision might rest with a correcting and appellate court.

He recognized the inherent initiative of the common law, nor hesitated to give it that constructive energy which is the genius of its being.

Such is the record of the visible accomplishments of a memorable life work, to be read of all men in the history of the Jurisprudence of Massachusetts.

Loving justice, the law was re-invigorated by his forceful enunciation of its principles. He has transmitted its authority to later generations, who shall know him through judgments that speak for all time.

The action of a strong and commanding life like his cuts

its own ineffaceable inscription upon the records of his time. The impelling cause, however, that inspires, sustains and gives character to action is to be sought beneath the surface of the current of honorable achievement and success.

Intimate association with the man reveals the source of his power. More generous heart than his never beat within the breast of man. Kindlier light of friendship never was in the eye of friend, for, with him, friendship was a passion that knew no doubt or distrust; simple, pure, sweet as that of a little child, in this he lived, and lives in immortal youth. The sorrows of those he loved he shared with cheering sympathy that never failed. His own afflictions he bore with gentle fortitude that quickened in others a new courage to bear their own trials. His love of home and of those whose affections made it the sanctuary of his surest happiness, was his refuge from every care. His hearthstone gleamed with gracious cheer of welcome and with the true hospitality of the heart.

He was studious, not that he might appear to be learned, but because he lived in familiar companionship with those who have truly interpreted the poetry, the philosophy and the duties of human life.

His days were spent in the forefront of the conflict with evil, and he had no illusions concerning the frailties of humanity, but without taint of cynicism or shadow of despair, he preserved a constant faith in his fellow men, which, by its very force made them worthy of it. An invincible enthusiasm and joyous eagerness for action and for labor possessed his very soul.

Ambition gave impetus to his tireless endeavor, for he was not insensible to the proud exultation of victory, but honor and vigilant conscience set the beacons by his pathway, and generous virtue kept even pace with his every footstep. Staying his own course, he would forego his own triumph that he might lift up a brother who had fallen in the race.

FRANCIS ALMON GASKILL

Austere in his own standard of living, to which he inflexibly held his own conduct, he maintained a generous consideration for the fault or failure of others.

So the stern requirements of the law were in his wise but just administration, tempered by that charity which the Divine law itself inculcates.

HERBERT PARKER,
DAVID F. O'CONNELL,
FRANK C. SMITH, JR.,
EDWARD J. McMAHON,
ERNEST H. VAUGHAN,
WEBSTER THAYER,
T. HOVEY GAGE,
GEORGE S. TAFT,
CHARLES F. BAKER,
RUFUS B. DODGE,

Committee.

MR. PARKER THEN ADDRESSED THE COURT,—

May it please your Honors,—With a bereavement inexpressible for a desolate human affection, with a sorrow that finds no utterance because of the loss of the visible presence of a constant and generous friend, I am yet uplifted by the happy memories which do not pass with death. In this hope, in this joy which still lights the heart of his every friend, we his associates at the Bar, those who have practised before him upon the bench of this court, in happy memory of friendship, in grateful recognition of kindness, in grave and serious appreciation of a great public servant, present this memorial. And I have the authority and in behalf of the committee delegated to discharge this grave yet gracious duty, move that this memorial be spread upon the records of this Court, and that procedure appropriate to the occasion be ordered by the justices of this Court.

REMARKS OF
JOHN R. THAYER.

May it please the Court,—The Court and Bar, upon an occasion like this, do well to pause in their accustomed work to pay their tribute of respect and love to the memory of our departed friend and recall some of the virtues and qualities of heart and mind that so deeply endeared him to the people of this city and State.

In the death of Judge Gaskill I have lost one of my most intimate, true and beloved friends, our Bar Association one of its most conspicuous, able and influential members, our city one of its most noble, learned and active citizens, and our State one of its most esteemed and honored judges. Judge Gaskill and I had many things in common in our younger days. We were each born in country towns in the southern part of this county and were nearly of the same age. We each prepared for college in preparatory schools in the country towns. We were graduated from college but a few years apart. Each began the practice of law at nearly the same time in this city, and occupied offices in the same building on the same floor near each other. Scarcely a day passed for more than 20 years when we were not in each other's company. The confidence, respect and love which germinated in those early days grew, strengthened and solidified as the years came and went, mutually given and mutually received, I know, till the last hour of his recorded time.

What words can I use to give proper expression to the feelings which control me or to sentiments fitting to be expressed upon an occasion like this? Judge Gaskill, with his many other golden gifts, was blessed with a happy, sunny, cheerful, pleasure-inspiring disposition. The world always looked bright and lovable to him, and the light and pleasure which he ex-

perienced from the world at large he reflected by his cheering words, his genial bearing and encouraging suggestions upon the lives of those who came within the charming influence of his attractive personality. There were few dark and dreary days for him. His sunny disposition radiated and dispelled the gloom. To spend an hour with him was to be cheered and encouraged and started afresh on life's journey with renewed hopes and aspirations.

He would not permit himself to grow old. He evidently believed that one's age is not measured by years, but by his feelings, that one is no older than he permits himself to feel that he is, and that age is more a matter of feeling than of years. He was the youngest looking and the youngest appearing member of his age of any one in our Bar Association, despite the fact that he had been one of its most industrious, hard working members.

Judge Gaskill's earliest associates were with the common country people who dwelt in the rural districts of Worcester County, and the early impressions there received among those strong, earnest, law-abiding people remained with him always. They inspired his sympathies, gave direction to his thoughts, warmed his heart and controlled to a great extent his ideas of public duty and private effort at every stage of his civic, professional and official life.

The opening years of his professional career were not marked by sensational success, but rather by a steady advancement in the confidence of the people and of the courts acquired by his efforts as a diligent, studious, and capable young man. In the comparatively unimportant cases which are usually committed to young men in the profession, great amounts are not at stake, but in the proper preparation and presentation of such cases before the various tribunals the principles of law as laid down by the masters of jurisprudence are as clearly and ably presented as in controversies in the highest courts involving vast amounts.

Judge Gaskill, in those early days of professional life, despised not the day of small things. To one imbued with zeal and ambition for eminence among his associates in the legal profession, no trial in court is unimportant when it presents a contested issue of law and fact. In his own mind and heart, as those of us who were most intimate with him during the years of his active practice well knew, his labors and his triumphs and conquests in the courts were the dearest and most satisfactory.

It was his studious habits in the early days of his professional career and careful attention to the business entrusted to his care prompted by a laudable ambition for success and distinction among his fellowmen, that soon attracted attention and brought him into prominence in this city and this section of the State.

The keen, high zest with which he often enjoyed the encounters and conflicts at the bar and their results, even if not always successful, were things which once witnessed were not readily forgotten. If the law, as the old writers have it, is indeed a jealous mistress, yet she had no cause to complain of Brother Gaskill's want of love or devotion. He lived to realize that his fidelity to his profession had met with a suitable reward.

His legal abilities were so varied and diversified that it is difficult to say in what branch of the profession, when in active practice, he most excelled, and still more difficult to find in what he was deficient. He had the capacity to grasp a case in all its bearings and having once grasped it, to hold it in all its details, so that if he failed upon one hypothesis, he might survive and succeed upon another. He understood men in their proper relations and proportions and estimated them at their real value rather than at their pretended value.

It mattered not in what situation he was placed, he met its requirements with ability, dignity, courage and integrity.

In this one great consideration, shining out like a star over the pathway of his every endeavor, his friends and brethren had their abundant pride and satisfaction. Until within a few years of his death he was blessed with exceptionally good health and strength and remarkably good courage. It is true, nearing the close of his busy and active life, he had premonitions of weakening and dissolution by sudden and unexpected afflictions, which were forerunners of his final taking off. He was by nature too light-hearted to complain, but must have been admonished by these severe attacks and realized that he was walking in the shadow of an impending crisis, yet no wail or murmur or lament ever passed his lips or shook his lofty fortitude.

His duties to his church were no more neglected or evaded than his duties to his family, his profession, and his friends. He bore open and public testimony on all proper occasions to his reliance upon the teachings of Christianity for the advancement of civilization and for the benefit and happiness of mankind.

In his private life he exemplified the beautiful virtues of his religion. He obeyed the apostolic injunction and lived in peace with all men as far as it lay in his power to do so. As long as history treasures up pure lives and faithful service, and as long as public and private virtues,—stainless and without blemish, endure,—so long will his name be cherished by the people of this county and State as an example worthy of the highest emulation. Already a monument has been raised, more enduring than brass or marble, more precious to his memory and more valuable to our citizens whom he served so faithfully and with such signal ability.

Fortunately, on this occasion we need not invoke charity in the judgment pronounced on the life, qualities, and character of our departed friend, for we can challenge for them universal respect and admiration; but should we not also in all cases

deal charitably with the living as well as the dead? We have been told on Divine authority that faith, hope and charity are the cardinal virtues and that the greatest of these is charity. Not that charity which merely relieves suffering humanity, but that broader charity which judges leniently the motives and actions of men, which teaches us to "Do unto others as we would have others do unto us," that sublime charity inculcated by our Saviour. In the friction caused by fierce strife and heated discussion, we often indulge in a bitterness toward our opponents as unjust as it is uncharitable. Motives are impugned, actions misrepresented, facts distorted and character assailed in the mad strife for conquest. Are we as careful and thoughtful not to wound as we should be? "The blood will follow where the knife is driven. The flesh will quiver when the pincers tear."

One of the Roman satirists tells us that pale death, with unfaltering footsteps, knocks alike at the poor man's hut and the palace of kings, and every page of history teaches the mournful truth that the paths of glory lead but to the grave; and how often in the recent past has this solemn lesson been brought home to the members of our Association. How forcibly are we this day reminded that "It is not all of life to live, nor all of death to die," for who shall say that in the last moment, when the celestial messenger came to our departed friend, unannounced, and touched the great heart, making it rest forever, the acts of kind beneficence, the sweet charities of a good life were not transformed into rays of living light, illuminating to the freed spirit the pathway to the realm of the infinite and immortal.

FRANCIS ALMON GASKILL

REMARKS OF
EDWARD J. McMAHON.

May it please the Court,—The formal tribute to the memory of Judge Gaskill which has been presented to the Court by the Chairman of the Committee on Resolutions is an expression of the sincere love and appreciation of the Bar of this County for a departed brother whose great ability, sterling integrity, and charming personality have secured for him a distinguished place upon the roll of honor of the Bench and Bar of Massachusetts.

The record of his career is an open book. It tells the story of a man who was inspired and sustained, in all of the trials and rewards of an unusually active life, by the cardinal virtues of faith, hope and charity. How well he fulfilled every duty imposed upon him, whether as a dutiful son, a loving husband, a fond father, a faithful friend, a patriotic citizen, a trusted counsel, or as an upright and a learned judge, has been eloquently told by the gentlemen who have preceded me. However, it may not disturb the perfection of their beautiful tribute to allude for a single moment to Judge Gaskill's unsurpassing fidelity to friendship. Indeed it seems to me that, among all the great qualities of mind and heart which he possessed, none excelled that cordial, joyous and buoyant love which he so generously bestowed upon his friends. Like a clinging vine it entwined itself about their hearts to soothe them in their sorrows, to rejoice with them in their triumphs and to hope with them in the consolations of a glorious immortality. And can we believe that this friendship of his, which was so constant and so true, ended with his mortal breath? Oh no, for it was made of sublimer stuff than that. It was an attribute of his immortal soul and I am confident that if it were permitted mortal ears to hear the message of love and of consolation

which the spirit of our departed friend would give to us upon this solemn occasion it might be expressed in these words of Sir Edwin Arnold,—

Sweet Friends, what the women lave,
For its last bed in the grave
Is a tent which I am quitting,
Is a garment no more fitting,
Is a cage from which at last
Like a hawk my soul hath passed.
Love the inmate; not the room;
The wearer, not the garb; the plume
Of the falcon, not the bars
Which kept him from the splendid stars.

Now the long, long darkness ends,
Yet ye wail, my foolish friends,
While the man whom ye call "dead,"
In unbroken bliss instead
Lives, and loves you; lost, 't is true
By any light that shines for you;
But in light ye cannot see
Of unfulfilled felicity,
And enlarging Paradise,
Lives the life that never dies.

Farewell, friends; Yet not farewell;
Where I am, ye, too, shall dwell.
I am gone before your face
A heart-beat's time, a gray ant's pace.
When ye come where I have stepped,
Ye will marvel why ye wept;
Ye will know, by true love taught,
That here is all, and there is naught.

REMARKS OF
T. HOVEY GAGE.

May it please the Court,—It does not fall to the lot of most men to touch very many sides of even a single calling. To-day, the engineer, the doctor and the lawyer specialize. The member of our profession who excels in the trial of contested cases, may never know the exigencies of an administrative practice; a distinguished success at the Bar is not always rounded out with distinction on the Bench. But this afternoon we meet in memory of one whose experiences were singularly complete and whose life will long be an inspiration and incentive to all that is efficient, serviceable and honorable.

As a leader of the Bar of the central county of this Commonwealth, and as District Attorney, Mr. Gaskill enjoyed an extensive practice and acquired a profound knowledge of both civil and criminal procedure. He was a wise counsellor, and his advice and kindly enthusiasm was sought in the management of financial, educational and charitable institutions. He knew the stress of the court room and the anxieties of responsibility for large affairs.

He brought to the Bench a wide knowledge of men and things, and there displayed the same mastery over the task in hand that had distinguished him at the Bar. But there are others, who, from a more intimate knowledge, can better describe his attainments as a lawyer and judge.

But the law is not all there is to life, and though it be a jealous mistress, he is a wise man who steals, if need be, a little time for the cultivation of other pursuits and pleasures. Judge Gaskill did not allow himself to become so engrossed in his chosen profession that everything else escaped him. With his broadening experiences, his interests broadened, and he grew fond of art, literature and outdoor pursuits. He came,

I believe, to the conclusion to which almost all wise men have come, that after all is said and done, man's best friends are good pictures and good books. He liked to hunt for them; he liked to own them; he liked to commune with them. With such tastes, with a genius for staunch friendships, with the prestige of a successful career at the Bar and the dignity of an eminent position, Judge Gaskill's life seems to me to have been peculiarly happy. Stevenson, in his description of Edinburgh, asks, "After a hospital, what uglier piece is there in civilization than a court of law? Hither come envy, malice and all uncharitableness, to wrestle it out in public tourney: crimes, broken fortunes, severed households; the knave, and his victim." But this picture makes no mention of honorable counsel who will not, through partisanship, stoop to dishonest methods, who will not temporize with their own principles or deceive the Court, and who still believe that "Blessed are the peacemakers, for they shall be called the children of God." Nor does it make any mention of the wise, patient, merciful judge, the presiding magistrate of one of the three great co-ordinate branches of all government under the common law, whose whole life is spent in protecting the innocent, securing redress for the injured, settling differences, and controlling the passions of men. It was for these things that Judge Gaskill stood, and for which we to-day honor his memory.

FRANCIS ALMON GASKILL

REMARKS OF
WEBSTER THAYER.

May it please the Court,—An able lawyer, a learned judge, a distinguished citizen, a loyal friend of education, a kind and loving husband and father has passed from this life into the realms of eternal rest. It is therefore eminently desirable that the members of this Court and his brethren of the bar should pause in their professional labors to pay a brief but worthy tribute to his name, his memory and his life's work.

Judge Gaskill was fortunate in choosing the law for his professional work. For that work he was endowed with intellectual abilities of a high order,—quick perceptive faculties, a capacity for acute reasoning and of swiftly reaching conclusions, remarkable powers of observation, a singularly ready and retentive memory, and that greatest of mental gifts the ability to concentrate every faculty of his mind upon the subject he had under consideration. With these natural endowments, strengthened and fortified by his energy, sagacity, courage, industry and integrity, Judge Gaskill became one of the ablest, strongest and most successful lawyers at our bar, a bar at that time that stood second to none in this Commonwealth.

This high and distinguished honor alone meant large accomplishments and splendid achievements in the innumerable activities of human affairs; it carried with it a name and an inspiration that will ever be a beautiful memory in our hearts and in our hopes.

As District Attorney, he was fearless and independent, courageous and humane, loyal and faithful to the great and many interests that were associated with that important office. For the splendid performance of these duties he justly received the confidence and affection of his fellowmen.

As a Justice of the Superior Court, Judge Gaskill earned his

greatest fame. For this work he belonged not to one county alone but to the people of the Commonwealth, and throughout the Commonwealth he was easily recognized as one of the ablest and strongest members of this Court. His great ability and profound legal knowledge would have adorned and ornamented the highest court in this Commonwealth.

As a citizen, he was high minded and patriotic, and loyal to the noblest ideals of true American citizenship.

As a friend of educational institutions he was enthusiastic and devoted, giving fully of his time and means in order that our young men might go out into the world prepared for a greater usefulness and efficiency in the service of their fellow-men. Friends who were associated with him in this noble work testify by their presence here to-day their deep appreciation and gratitude.

He was a devoted husband and a loving father, whose presence always made home exceedingly happy. Upon the loss of such a man how sweet is the thought that there is no death.

“The stars go down
To rise upon some fairer shore;
And bright in Heaven’s jewelled crown
They shine forever more.”

There is one comforting thought, however, that comes to us to-day. He fell almost at the post of duty. His character, the thing that most impresses us in the final analysis of human life, had fully ripened. No frosts of winter had chilled his powers. Body and mind were in autumnal beauty. Time had not touched him but to strengthen the heart and the brain. But in the Master’s eye it was a completed life. He has gone from our sight in the fullness of his strength,—gone from the glories of this life to the crowing glories of eternity; gone from his place in our Temple of Justice to a higher and happier place in the great Temple of Immortality.

FRANCIS ALMON GASKILL

REMARKS OF
ERNEST H. VAUGHAN.

May it please the Court,—At this late time I am under two embarrassments, first I could not assume to add anything to the eloquent statement of the character and characteristics and achievements of Judge Gaskill. The second is greater still, if all of us undertook to talk from now until the rise of tomorrow morning's sun we could not adequately state the qualities which he lived and by his life illustrated.

My single sentence in seconding this memorial is that he measured fully up to all of the great attributes and qualities which make the great judge, which make the able lawyer, and most of all he added to these things the things which make the truest, sweetest and best friendship that it is the lot of mortal man to have associated with him.

REMARKS OF
WALTER P. HALL.

May it please the Court,—Twenty years ago I entered the office of Judge Gaskill as a law student. He was then 44 years of age, actively engaged in the practice of his profession, and the district attorney of the middle district. It was my good fortune to learn something of the man as well as the lawyer, and to then recognize to the full those factors that made his subsequent career upon the bench so distinguished.

The salient characteristics of Judge Gaskill's life and temperament were apparent to one after a short association with him. If I were asked to state in a single sentence the factors that did so much to make the career of Judge Gaskill a success, both at the bar and upon the bench, I should without hesitancy

declare for his simplicity of method and directness of action. He intuitively seized upon the point at issue, and stripped every cause, whether as an advocate or justice, of all non-essentials and collaterals. His examination of witnesses was direct and to the point. His cross-examination was always fair and convincing. He was strongest at the bar, in my opinion, when fraud was to be attacked and exposed, and upon such occasions he rose to the plane of highest advocacy. His argument was direct and incisive, always based upon sound principles of law and fact, and directed in clear and lucid language to the intelligence and judgment. No man that I have ever seen in the trial of a cause had less artificiality in his bearing or less of mannerism in his deportment. As prosecuting officer he brought to the service of this Commonwealth sterling qualities of judgment, fairness and discretion. Combined with a large experience in the trial of causes, he executed the high functions of his office without fear, and with mercy to his fellowman. Those who knew Judge Gaskill best will agree that no man in the recent history of our State has administered the duties of this responsible position with more success.

Upon the call to higher service he brought to the bench of the Commonwealth a ripe experience and intelligent judgment, and the same characteristics that were exhibited at the bar and as district attorney attached to his conduct in the high office in which he died. No justice of our courts has held greater repute with his brothers at the bar than Judge Gaskill. His simplicity of method and directness of action were here exhibited to the full. Every suitor had his day in court when he was upon the bench, but that day was confined to the presentation of only those things for which a court of justice sits. Without hurry, without flurry, in good temper and with patience, the non-essentials were intuitively discovered and rejected, and by the time that the evidence was all in, inexperienced counsel even

found their minds grasping the single question which, under the direction of the presiding justice, the jury was to determine. In his charges to juries, Judge Gaskill rose, in my opinion, to the highest standard of efficiency. His clean, clear, incisive statement of the law has seldom been improved upon. He addressed juries from the bench with the same simplicity and directness that characterized his conduct at the bar. Requests for rulings were considered and decided with clearness and precision. He held to his own ideas with respect to what the law was or ought to be. No fear of reversal in the court above ever tempered in the slightest degree his view of justice in his own court. It was here, I think, that one finds the splendid and sterling character of Judge Gaskill best exemplified. As he continued upon the bench he did not grow away from the bar, but sought and did retain the affection and respect of his contemporaries and of those younger members who had come to practice after his elevation.

He was a man of sociable and loving nature, and to the last kept in touch with his fellow men. His many activities outside of his profession and his connection with education and charities present a striking picture of the well-roundedness of his character. He was ardent in his friendships and believed in his fellow man. His whole career is distinguished for the self-poise of the man himself. On all occasions and under all circumstances he met life as he found it, with good judgment, with rare discernment, and with absolute and unflinching courage. When the time came, and in the fullness of his maturer years he surrendered that life that had been so full of service and character, he left an enduring and indelible impress upon his fellow citizens of the commonwealth.

When death came to him at the height of his powers and career, he was engaged in the preparation of a history of the bar of Worcester county, at the request of its bar association.

I hope that the material which he was collecting for this purpose may be preserved, and that the bar may publish as an additional memorial to his memory his estimate of those who were his contemporaries in its leadership. It is right and proper, therefore, that this occasion should be set apart by the court of which he was so long a member, to record to what extent we may our small tribute to such a man. The world is better that he has lived, and those of us who have known him well are better for that knowledge. It is not given to me to express in the facile phrase of the learned ex-attorney general the things that are in my heart; but it is with profound gratification that I avail myself of the opportunity now presented to me of formally seconding the memorial.

REMARKS OF
FRANK N. THAYER.

May it please the Court,—I certainly at this time could not any more than express in common with those who have spoken an appreciation of the splendid tributes to Judge Gaskill. I may be pardoned for a moment under the circumstances, and you will pardon me when I say that it was my good fortune to become a friend of Judge Gaskill at an earlier stage of his career than most of you. As some of you know, Judge Gaskill was born in the same town where I have spent my life and grew up to manhood in that town. I met him when he was a boy; his ancestors were in the same sphere of life, and I know that those characteristics which he developed in later life and which he encouraged in its growth came to him by right of inheritance and association. He came, on both sides, of sterling and sturdy New England stock which were exemplification of all that is best and truest, and in what is dearest and best to us in our New England institutions.

Some months ago we held a meeting at the Little Friend's meeting house in East Blackstone where his ancestors worshipped and to which he had been a contributor in preparing for the worship of Almighty God. We held a little memorial service, and those friends and neighbors and kinsmen of his ancestors gathered together there, and without personally knowing the man, the feeling of respect and sympathy which they had for the loss that the people of this Commonwealth sustained did my heart good knowing him as I did in his later career. And I want to say, knowing his ancestry, knowing the associations that he grew up under, that Judge Gaskill was carrying out the principles that were inculcated by his ancestors and he encouraged the traits which were his by inheritance and association.

RESPONSE OF
MR. JUSTICE EDWARD P. PIERCE.

Mr. Attorney, and Gentlemen of the Bar,—Nearly ten years ago, at this season of the year, in this court room, I came to the bench; here I took the oath of allegiance and fealty, and here was extended, in real friendship, in right royal fellowship and with a promise of an assistance that never failed, the hand and the heart of Francis A. Gaskill. At this time, in this most fitting place, I acknowledge my debt of gratitude.

For a brief moment permit me to speak of him as a man; and, then, as a minister of the law and champion of the right—for in him the qualities were united and happily allied. He was light of foot and quick in all movements of the body. His face was keen, his eye bright, clear, masterful. Every action, every movement, betokened strength, energy, reserve force,

resourcefulness, a command of himself and others. Every word spoken in jest or earnest, was clear, succinct, direct, comprehensible and understandable. As he entered this room—I might say equally well, as he entered any room—in the performance of his duty, was there ever present one person who failed to acknowledge his dignity, or to pay to him that homage which is due to the speaker and declarer of the ever living word? His spiritual and intellectual forces were such as were outwardly betokened. In his case, at least, fair exterior did not serve to conceal interior defects. In truth, the manly beauty and strength of the physical body was but an index, a suggestion, of the charm, of the purity, of the breadth, of the depth and of the naturalness of the intellectual and spiritual body.

With such characteristics, one could easily predict that the business of the court over which he presided would be dispatched with an accuracy, a fidelity, an ease and expedition impossible to a less mentally honest and resourceful man. He was impatient of the delays, follies, foibles and technicalities of the suitor who looks only to victory and is regardless of the right. Of the trickster, of the stirrer up of strife and contention, of the doer and supporter of fraud and fraudulent purpose, he had an abiding, an ever-continuing, never-forgetting, I might almost say, an unreasoning hatred. And this was natural, it was predictable, it was inevitable; because he was one whose thoughts were for others, whose high purposes were adopted in just principles and were never abandoned; because he was one who never sought an indirect advantage by a specious road, never took an evil path to gain a real good purpose.

In the administration of the law he was expeditious, nor was complaint heard of the "law's delays." In the world at large are men who are constructive, energetic, quick of apprehension and comprehension, men of courage, who have convictions and the courage of convictions. There are also men, equally

worthy, who are slow, conservative, afraid of innovation, doubtful and wavering in judgment, and without settled convictions—and they serve a useful purpose as restraining forces, lest otherwise the wheel of progress should revolve too fast. It is needless to say that Francis A. Gaskill was not in the conservative class. His decisions followed close on the heels of argument and were fearlessly given and fearlessly expressed. Rapidity of reasoning does not necessarily import lack of deliberation. It should never be forgotten that the question is not, how quickly or how slowly the result is obtained or declared, but how accurately has the mind arrived at its conclusion. In the large majority of instances of deferred judgments, the delay has arisen from dilatory habits of mind, and the judgment or decision when rendered, though it may smell of the candle, is neither so accurate nor so just as it would have been if rendered upon consideration immediately following the hearing. In the delay, color disappears and nothing but outlines of the picture in black and white are reproducible upon the tablets of the memory. He excelled in power to grasp the salient points, to group the facts in the order of just and relative proportion, and in marvellous skill in the application of the touchstone of experience to the alloy of truth and falsehood.

The few words that I have spoken serve as but a glimpse of the man and of his varied attainments; they utterly fail to depict the loveliness of his character or the love and admiration of his fellows. Self-evident truths need no demonstration.

An order may be entered that your resolution be recorded, and the court will now adjourn.

MEMORIAL ADDRESS

BY

PRESIDENT WILLIAM HERBERT PERRY FAUNCE

at the Funeral of JUDGE GASKILL, July 19, 1909.

This is not the time or place for an estimate or analysis of the character, career or public service of the distinguished jurist who has just passed into the unseen. We stand too near him and our sorrow is too fresh and vivid for that. We are assembled not as lawyers, as judges, as teachers, as officials. We are here as men and women, to think for a few minutes of the broad-minded, big-hearted friend who walked by our side in helpful sympathy, who brightened our lives by his presence and whose memory will be both benediction and inspiration.

True grief is very simple. The small vexations of life are loud and strident, its deeper griefs are quiet and sometimes silent altogether. The pomp and pageantry of mourning are not here to-day; the great display, the funeral dirge, the elaborate panegyric—none of these do we want this afternoon. We gather in simple loving memory of the strong man who wrought so sincerely, bravely, wisely and now lies like a warrior taking his rest with his martial cloak around him.

Death takes from us some things and we cannot hide the fact. But other things it cannot take; other things it brings home to us as inalienable and enduring possession. The physical presence indeed vanishes and there is no remedy. But our Lord said to His disciples: "It is expedient for you that I go away."

The first impression our departed colleague made upon us was that of buoyant overflowing vitality. The boy had in earliest years laid in a stock of sturdy strength, of restless energy, which was of priceless value amid the tasks of maturer years.

The strong hand-clasp, the strong voice, the accent of conviction, the force of personality that swayed strong men, these things were built on an active unsullied youth spent largely in the open air. And as there was something youthful about him all through life, so there was a breezy outdoor quality in his manner that was most wholesome to encounter. It is difficult to believe that he was ever depressed, or morbid, or inert.

He was not simply alive, but exuberantly and joyously alive. He gave constantly the impression of surplus energy, of a prodigal strength—alas, too prodigal, as we see to-day. In his life there was enough and to spare. He did not reach up to his task, painfully and slowly; he descended to meet it, rejoicing as a strong man to run a race.

And that overflowing strength was at the service of all who needed it. No weak man could feel the grasp of his hand without receiving as it were an electric current of courage and good cheer. He delighted to put his strong shoulders under other men's burdens. All around us are strong, successful men, who seem to have forgotten their own early struggles and have no word of help for those now struggling.

The leaders of men too often climb and then kick down the ladder by which they ascended. But Judge Gaskill was never so happy as when helping young men to put their feet on the rounds where his own once stood, or pointing out the path through the woods which he himself had blazed. He delighted in young men, in their promise, their courage, their progress, since he himself did not know how to grow old. His generous ardor made all jealousy impossible, his glowing friendship saw the best side of every soul. He trusted men into trustworthiness and loved them into lovable dispositions and noble careers. "Virtue went out of Him" was written of our Lord, and truly we may say it of this His faithful servant.

But one may say: Are these the virtues of a learned judge?

Have we not rather thought of justice as blind, impersonal, coldly wise and inhumanly exact? If we have, then this noble life may correct our error and teach us to think more nobly of the sphere and function of human law. When Judge Gaskill mounted the bench he had the reputation of being a stern and inflexible judge. All the strength of his character was behind each decision. He had nothing of the sentimentality which would look on all wrong-doing as disease and attribute all responsibility to the social order.

He blamed the evildoer, and he righteously executed righteous laws. But he did this not as a mere recorder of sentences, but as a human being dealing with his fellow men. Perhaps no man of our time on the bench more finely combined the judicial and the human than did Judge Gaskill.

So to-day we are all enriched by his having lived among us. To-day we all give thanks to the God whose best gift is always a man. The church is richer because he for many years was member and leader. The bar is higher in ideals because he practiced in our courts.

The courts are wiser and stronger because he dispensed justice. The school is larger and tenderer and a better place for boys, because he guided its board of trustees. The college is more steadfast and open-eyed and courageous because he sat upon its board of fellows. The world is a better place to journey through because this genial comrade has walked these years beside us.

And can we believe that this vivid spirit has ceased to serve the world? Can we for a moment suspect that his life has gone out in darkness? The law of the conservation of energy unites with Holy Scripture in pronouncing this impossible. In some room of the Father's house he still lives and loves and serves.

“For love will dream, and faith will trust,
Since He who knows our need is just,
Yet somehow, somewhere meet we must.”

